

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

GERALDINE A. TRICE,

Plaintiff,

vs.

JAMES HUYNH,

Defendant.

Case No.: 2:16-cv-02424-GMN-VCF

ORDER

Pending before the Motion for Return of Appeal Filing Fee, (ECF No. 20), filed by pro se Defendant Geraldine A. Trice (“Defendant”)¹ against Plaintiff James Huynh (“Plaintiff”).² For the reasons discussed below, the Court DENIES the Motion.

I. BACKGROUND

Plaintiff filed a Complaint for Unlawful Detainer on August 22, 2016, in the Justice Court, Las Vegas Township, Clark County, in order to obtain possession of certain real property. (Ex. 1 to Ex Parte Appl. (“Compl.”), ¶¶ 1–9, ECF No. 6). On October 17, 2016, Defendant removed the eviction action to this Court based upon federal question jurisdiction. (See Notice of Removal ¶ 10, ECF No. 1-1).

On November 30, 2017, the Court filed an Order, (ECF No. 8), remanding this case back to state court, which Defendant appealed, (ECF No. 13). On June 14, 2017, the Ninth Circuit

¹ It appears that Defendant’s Notice of Removal inadvertently switched the title of the parties. (See Mot. to Am. 1:21–22, ECF No. 4) (“This amendment is in order due to the Plaintiff and Defendant name . . . was [sic] incorrect.”). Accordingly, the Court will refer to the parties as they were named prior to removal from state court: Plaintiff James Huynh and Defendant Geraldine A. Trice.

² In light of Defendant’s status as a pro se litigant, the Court has liberally construed her filings, holding them to standards less stringent than formal pleadings drafted by attorneys. See *Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

1 dismissed Defendant's appeal for lack of jurisdiction. (ECF No. 19). In the instant Motion,
2 Plaintiff seeks return of the appellate filing fee. (ECF No. 20).

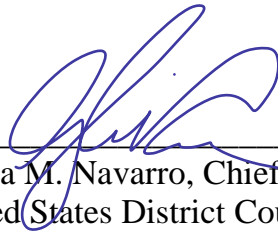
3 **II. DISCUSSION**

4 A filing fee is owed upon initiation of an appeal. Fed. R. App. P. 3(e). The obligation to
5 pay the filing fee is not predicated upon the guarantee of some particular outcome. Defendant
6 filed the appeal, triggering the obligation to pay a filing fee, and Defendant is not due a refund
7 simply because it has not proceeded as she envisioned. Moreover, the district court merely
8 receives the appellate filing fee "on behalf of the court of appeals." *Id.* The Court therefore
9 lacks the authority to order the return of a fee paid to the Ninth Circuit. Accordingly, the Court
10 denies Defendant's Motion.

11 **III. CONCLUSION**

12 **IT IS HEREBY ORDERED** that Defendant's Motion for Return of Appeal Filing Fee,
13 (ECF No. 20), is **DENIED**.

14 **DATED** this 27 day of June, 2017.

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18 Gloria M. Navarro, Chief Judge
19 United States District Court
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